



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/170234

PRELIMINARY RECITALS

Pursuant to a petition filed November 20, 2015, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for orthodontia, a hearing was held on February 24, 2016, at Madison, Wisconsin, with the petitioner appearing by telephone. The hearing was a rehearing granted by the Division of Hearings and Appeals on January 15, 2016. A hearing set for February 18, 2016 was rescheduled at the petitioner's request.

The issue for determination is whether petitioner meets the criteria for orthodontia.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Written submission of [REDACTED], DDS

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 14-year-old resident of Dane County who receives MA.
2. On September 18, 2015 [REDACTED] requested prior authorization for orthodontia for petitioner, PA no. [REDACTED]. By a letter dated October 6, 2015, the DHCAA denied the request.

3. Petitioner's Salzmann score was determined to be 11. There were no reports of extenuating circumstances in the prior authorization request.

DISCUSSION

Orthodontia is not an MA-covered service. Wis. Admin. Code, §DHS 107.07(4)(j). However, medical services provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Admin. Code, §DHS 107.22(4). Prior authorization is granted when the generic authorization criteria at §DHS 107.02(3) are met. Those criteria include the requirement of medical necessity. The DHCAA has defined medical necessity in its policy document, the Prior Authorization Guidelines Manual, page 125.004.03. The Manual requires a Salzmann Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping. See also www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=15&s=2&c=530&nt=Severe+Malocclusion, which is the Department's MA Providers Handbook, specifically related to dental issues, Topic 2909.

The Salzmann score is a rating of the person's dental malocclusion, that is, how far from normal occlusion the person's teeth are. Petitioner's Salzmann score, as determined by the DHCAA dental consultant, is 18. Extenuating circumstances could be that, despite a low Salzmann, the malocclusion causes the person to have unusual difficulty eating or speaking, or the person has documented psychological problems caused by the abnormal occlusion.

As noted in the findings, there were no reported extenuating circumstances in the prior authorization request. Petitioner's mother testified that petitioner experiences pain when she eats. Based on the testimony, however, I have no way of determining whether the malocclusion causes the pain or whether it is caused by something else. If petitioner could obtain a letter from her dentist or even her pediatrician relating pain while eating to the malocclusion, the DHCAA certainly would review the issue. Petitioner's orthodontist could file a new prior authorization request with the new evidence.

Petitioner's mother also mentioned that this request is for second phase orthodontia. Petitioner had the first phase approved by MA and it was completed. I can find nothing in the policy that second-phase orthodontia must be approved. It is apparent that the MA program reviews each phase independently.

I thus will uphold the denial of orthodontia in this instance. Again, if a doctor is able to relate petitioner's eating pain to the malocclusion, a new prior authorization request can be filed.

CONCLUSIONS OF LAW

The DHCAA correctly denied orthodontia because petitioner's Salzmann score was below the approval level and no extenuating circumstances were provided.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of February, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 26, 2016.

Division of Health Care Access and Accountability